



*DAE*  
*2111*

DOCKET NO.: B1136.70000US04

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Edward P. Ingenito  
Serial No.: 10/649232  
Confirmation No.: 6203  
Filed: August 26, 2003  
For: TISSUE VOLUME REDUCTION

Examiner: Catherine Serke Williams  
Art Unit: 3763

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 1<sup>st</sup> day of September, 2006.

*Pat R H Waller*  
Patrick R. H. Waller

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MAIL STOP PETITION  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

**UNDER 37 C.F.R. § 1.181**

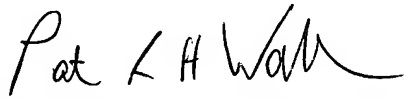
Applicant hereby petitions that the holding of abandonment of the above-identified patent application be withdrawn, under 37 C.F.R. § 1.181. A copy of the Notice of Abandonment is enclosed.

The Notice of Abandonment is based on an alleged failure to reply to the Office Action dated January 25, 2006. Applicant filed a response to the Office Action on July 25, 2006 as evidenced by the attached copy of the stamped, return receipt postcard, which was stamped on July 31, 2006. A copy of the response as filed under 37 C.F.R. § 1.8(a) on July 25, 2006 is also enclosed herewith. Additionally, Applicant encloses herewith a copy of the Image File Wrapper from PAIR, which indicates that an Amendment After Non-Final Rejection, Claims, a Fee Worksheet, Applicant Arguments/Remarks Made in Amendment, an Extension of Time and a Transmittal were received and entered on July 31, 2006.

Applicant accordingly believes that the papers filed on July 25, 2006 constitute a timely and complete response to the last pending Office Action.

Applicant does not believe that this petition requires a fee, as Applicant timely filed the response, and thus did not abandon this application. Accordingly, no such fee is included. In the event Office personnel determine that such fee is due, Applicant's representative authorizes that the fee be charged to Deposit Account No. 23/2825. If any additional information is needed, please contact the undersigned at the number listed below.

Respectfully submitted,  
*Edward P. Ingenito, Applicant*

By:   
Patrick R.H. Waller, Ph.D., Reg. No.: 41,418  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: B1136.70000US04  
Date: September 1, 2006  
x01/04/06x

**This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.**

### **Available Documents**

<b>Mail Room Date</b>	<b>Document Description</b>	<b>Document Category</b>	<b>Page Count</b>
08-04-2006	<b>Abandonment</b>	<b>PROSECUTION</b>	2
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07-31-2006	Amendment - After Non-Final Rejection	PROSECUTION	1
07-31-2006	Claims	PROSECUTION	3
07-31-2006	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2
07-31-2006	Transmittal to TC	PROSECUTION	2
07-31-2006	Extension of Time	PROSECUTION	1
01-25-2006	Non-Final Rejection	PROSECUTION	4
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01-25-2006	Index of Claims	PROSECUTION	1
01-25-2006	Search information including classification, databases and other search related notes	PROSECUTION	1
10-21-2005	Miscellaneous Incoming Letter	PROSECUTION	3
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07-23-2004	List of references cited by examiner	PRIOR ART	2
07-23-2004	Search information including classification, databases and other search related notes	PROSECUTION	1
07-23-2004	Index of Claims	PROSECUTION	1
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12-22-2003	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	1
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08-26-2003	Abstract	PROSECUTION	1
08-26-2003	Drawings	PROSECUTION	9
08-26-2003	Information Disclosure Statement (IDS) Filed	PRIOR ART	7
08-26-2003	Oath or Declaration filed	PROSECUTION	6
08-26-2003	Fee Worksheet (PTO-875)	PROSECUTION	1
08-26-2003	Fee Worksheet (PTO-875)	PROSECUTION	1

**Close Window**



# UNITED STATES PATENT AND TRADEMARK OFFICE

ST

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,232

08/26/2003

Edward P. Ingenito

10991-002004

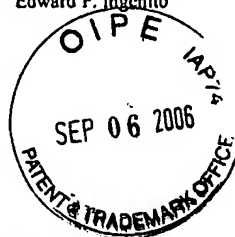
6203

23628

7590

08/04/2006

WOLF GREENFIELD & SACKS, PC  
FEDERAL RESERVE PLAZA  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2206



EXAMINER

WILLIAMS, CATHERINE SERKE

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 08/04/2006

**COPY**

Please find below and/or attached an Office communication concerning this application or proceeding.



# **Notice of Abandonment**

Application No.

10/649,232

Examiner

Catherine S. Williams

Applicant(s)

INGENITO, EDWARD P.


Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 25 January 2006.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$ \_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

  
NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Atty Docket No.: B1136.70000US04  
Inventor: Edward P. Ingenito  
Application No.: 10/649232-Conf. #6203

WGS Date: 07/25/06

Filing Date: August 26, 2003

Title: TISSUE VOLUME REDUCTION

The USPTO Mail Room acknowledges receipt of the following on the date stamped hereon

Fee Transmittal (1 page)

Three Month Request for Extension of Time Under 37 CFR 1.136(a) (1 page)

Amendment in Response to Non-Final Office Action (6 pages)

Transmittal Form (1 page)



Via: First Class Mail - Certificate of Mailing Under 37 CFR 1.8(a)  
Sender's Initials: PRW/sfg:dac  
Date Mailed: July 25, 2006

**COPY**

1057376



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Approved for use through 07/31/2006 OMB 3557-0001

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)		Application Number	10/649232-Conf. #6203
		Filing Date	August 26, 2003
		First Named Inventor	Edward P. Ingenito
		Art Unit	3763
		Examiner Name	Catherine Serke Williams
Total Number of Pages in This Submission	8	Attorney Docket Number	B1136.70000US04

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Amendment/Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input checked="" type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Reply to Missing Parts/Incomplete Application  <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____  <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	WOLF, GREENFIELD & SACKS, P.C.		
Signature			
Printed name	Patrick R.H. Waller		
Date	July 25, 2006	Reg. No.	41,418

Certificate of Mailing Under 37 CFR 1.8(a)	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Dated: July 25, 2006	Signature:  (Patrick R.H. Waller)



**COPY**

Approved for use through 7/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b>		<b>Complete if Known</b>	
<b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		Application Number	10/649232-Conf. #6203
		Filing Date	August 26, 2003
		First Named Inventor	Edward P. Ingenito
		Examiner Name	Catherine Serke Williams
		Art Unit	3763
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	B1136.70000US04
<b>TOTAL AMOUNT OF PAYMENT</b>		<b>(\$)</b>	<b>510.00</b>

**METHOD OF PAYMENT** (check all that apply)

☐ Check    ☐ Credit Card    ☐ Money Order    ☐ None    ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account    Deposit Account Number: 23/2825    Deposit Account Name: Wolf, Greenfield & Sacks, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below    ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17    ☒ Credit any overpayments

**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

**Total Claims**    **Extra Claims**    **Fee (\$)**    **Fee Paid (\$)**    **Multiple Dependent Claims**

\_\_\_\_\_ - 20 = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_    **Fee (\$)**    **Fee Paid (\$)**

**Indep. Claims**    **Extra Claims**    **Fee (\$)**    **Fee Paid (\$)**

\_\_\_\_\_ - 3 = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

\_\_\_\_\_ - 100 = \_\_\_\_\_ / 50 \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 2253 Extension for response within third month    **510.00**

<b>SUBMITTED BY</b>			
Signature	<u>Pat R H Waller</u>	Registration No. (Attorney/Agent)	41,418
Name (Print/Type)	Patrick R.H. Waller	Telephone	(617) 646-8000
		Date	July 25, 2006

**Certificate of Mailing Under 37 CFR 1.8(a)**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: July 25, 2006    Signature: Pat R H Waller (Patrick R.H. Waller)





Approved for use through 7/31/2006. OMB 0551-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**COPY**

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005</b> (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)		<b>Docket Number (Optional)</b> B1136.70000US04	
Application Number 10/649232-Conf. #6203		Filed August 26, 2003	
For <b>TISSUE VOLUME REDUCTION</b>			
Art Unit 3763		Examiner Catherine Serke Williams	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application. The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
	<u>Fee</u>	<u>Small Entity Fee</u>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ 510.00
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>23/2825</u> . I have enclosed a duplicate copy of this sheet.			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>41,418</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
<u>Pat R H Waller</u> Signature		<u>July 25, 2006</u> Date	
<u>Patrick R.H. Waller</u> Typed or printed name		<u>(617) 646-8000</u> Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

<b>Certificate of Mailing Under 37 CFR 1.8(a)</b>	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Dated: July 25, 2006	Signature: <u>Pat R H Waller</u> (Patrick R.H. Waller)



**COPY**

Docket No.: B1136.70000US04  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Edward P. Ingenito  
Serial No.: 10/649232  
Confirmation No.: 6203  
Filed: August 26, 2003  
For: TISSUE VOLUME REDUCTION  
Examiner: Catherine Serke Williams  
Art Unit: 3763

**Certificate of Mailing Under 37 CFR 1.8(a)**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: July 25, 2006

*Pat L H Waller*  
Patrick R.H. Waller

**AMENDMENT IN RESPONSE TO NON-FINAL OFFICE ACTION**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

In response to the Office Action dated January 25, 2006, please amend the above-identified U.S. patent application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 5 of this paper.

**COPY**

**AMENDMENTS TO THE CLAIMS**

Applicant has submitted a new complete claim set showing marked up claims with insertions indicated by underlining and deletions indicated by strikethroughs and/or double bracketing.

1. (Currently Amended) A non-surgical method of reducing lung volume in a patient, the method comprising administering, by way of the patient's trachea, to the target region of the patient's lung, a composition comprising an anti-surfactant composition, wherein the composition promotes collapse of ~~whereafter~~ the target region ~~collapses~~ and one portion of the target region adheres to another portion of the target region, thereby reducing the patient's lung volume.
2. (Original) The method of claim 1, wherein the anti-surfactant composition comprises 3-12% fibrinogen.
3. (Original) The method of claim 2, wherein the anti-surfactant composition comprises about 10% fibrinogen.
4. (Original) The method of claim 2, wherein the fibrinogen is autologous fibrinogen.
5. (Original) The method of claim 2, wherein the anti-surfactant composition further comprises a fibrinogen activator.
6. (Original) The method of claim 5, wherein the fibrinogen activator is thrombin, a thrombin receptor agonist, or batroxobin.
7. (Previously Presented) The method of claim 2, further comprising administering, by way of the patient's trachea, to the target region of the patient's lung, a fibrinogen activator, wherein the fibrinogen and fibrinogen activator are administered separately.

**COPY**

8. (Original) The method of claim 1, wherein the anti-surfactant composition comprises from about 10 mg/ml to about 200 mg/ml fibrin.
9. (Original) The method of claim 8, wherein the anti-surfactant composition comprises from about 20 mg/ml to about 200 mg/ml fibrin.
10. (Original) The method of claim 9, wherein the anti-surfactant composition comprises from about 20 mg/ml to about 100 mg/ml fibrin.
11. (Original) The method of claim 10, wherein the anti-surfactant composition comprises from about 25 mg/ml to about 50 mg/ml fibrin.
12. (Original) The method of claim 8, further comprising administering a solution comprising about 3-30 mM  $\text{CaCl}_2$ .
13. (Original) The method of claim 1, wherein the anti-surfactant composition further comprises an antibiotic.
14. (Original) The method of claim 1, wherein administering the anti-surfactant composition causes the target region to collapse.
15. (Original) The method of claim 1, wherein the method is performed using a bronchoscope.
16. (Original) The method of claim 1, wherein the patient is a human patient.
17. (Original) The method of claim 1, wherein the patient has emphysema.

Application No. 10/649232  
Amendment dated July 25, 2006  
Reply to Office Action of January 25, 2006

4

Docket No.: B1136.70000US04

**COPY**

18. (Original) The method of claim 1, wherein the patient has suffered a traumatic injury to the lung.

**COPY**

**REMARKS**

Claims 1-18 were previously pending in this application. Claim 1 has been amended without prejudice or disclaimer. As a result, claims 1-18 remain pending for examination with claim 1 being an independent claim. Basis for the amendment can be found throughout the specification as filed. No new matter has been added.

Applicant acknowledges the withdrawal of the double patenting rejection and the indication that claims 2-14 would be allowable if rewritten in independent format. However, Applicant respectfully requests reconsideration of the remaining rejection in view of following remarks.

Rejection Under 35 U.S.C. §102

Claims 1 and 15-18 were rejected under 35 U.S.C. §102(e) as being anticipated by Biggs et al. (US Patent Number 6,174,323) referred to herein as "Biggs et al."

Applicant respectfully submits that the disclosure of Biggs et al. is significantly different from the present invention. Specifically, Biggs et al. provides a device that can be used to cause lung collapse by attaching anchors to different portions of a lung and drawing the anchors towards one another using cords. In contrast, the present invention relates to using a composition comprising an anti-surfactant to promote lung collapse.

The Office Action pointed to column 6, lines 1-6 of Biggs et al. for a disclosure of an anti-surfactant composition. Applicant respectfully submits that the glue disclosed in this passage relates to connecting the cords that are used to pull on the anchors of the device of Biggs et al. Therefore, Applicant submits that Biggs et al. fails to disclose a composition comprising an anti-surfactant that promotes collapse of a target region of a patient's lung as presently claimed.

Accordingly, withdrawal of the rejection under 35 U.S.C. §102 is respectfully requested.

CONCLUSION

**COPY**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: July 25, 2006

Respectfully submitted,

By Patrick R.H. Waller  
Patrick R.H. Waller  
Registration No.: 41,418  
WOLF, GREENFIELD & SACKS, P.C.  
Federal Reserve Plaza  
600 Atlantic Avenue  
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(617) 646-8000

x07/25/06x



DOCKET NO.: B1136.70000US04

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Edward P. Ingenito  
Serial No.: 10/649232  
Confirmation No.: 6203  
Filed: August 26, 2003  
For: TISSUE VOLUME REDUCTION  
Examiner: Catherine Serke Williams  
Art Unit: 3763

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 1<sup>st</sup> day of September, 2006.

*Pat R H Waller*  
Patrick R.H. Waller, Ph.D., Reg. No. : 41,418

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**MAIL STOP Petition**

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

- **Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181**
- **Copy of Response Filed on July 25, 2006**
- **Copy of Return Receipt Postcard Stamped by OIPE on July 31, 2006**
- **Copy of Notice of Abandonment**
- **Copy of Image File Wrapper**
- **Return Receipt Postcard**

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,  
*Edward P. Ingenito, Applicant*

By: *Pat R H Waller*  
Patrick R.H. Waller, Ph.D., Reg. No.: 41,418  
Wolf, Greenfield & Sacks, P.C.  
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Docket No.: B1136.70000US04  
Date: September 1, 2006  
x01/04/06x